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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,430	01/22/2004	Anthony J. Baerlocher	112300-1877	6803

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EXAMINER

DEODHAR, OMKAR A

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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07/25/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

Office Action Summary

Application No.

10/763,430

Applicant(s)

BAERLOCHER ET AL.

Examiner

Omkar A. Deodhar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 4/26/2004
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Non-Final Rejection

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-31, 34-37, 40-43, 46-52 and 55 are rejected under 35 U.S.C. 102(e) as being anticipated by DeMar et al. (US 6,315,660).**

DeMar discloses a gaming device comprising the following:

Claims 1, 4, 7, 11, 15, 20, 24, 30, 31, 35, 41, 47:

- Plurality of symbols including a plurality of non-terminator and terminator symbols, (Figure 10 discloses the Monopoly board theme with non-terminating symbols such as "Illinois Avenue12X", or "Atlantic Avenue15X" and terminating symbols such as "Go To Jail", additionally, terminating symbols comprise locations such as "Luxury Tax," in the sense that a player lacking sufficient funds to pay the tax cannot continue game play).
- Display device adapted to display a plurality of player selectable selections (symbols) to a player, (Figure 2 Item 12);

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- Processor operable with said display device (Figure 9 Item 170) to enable the player to select at least one of the symbols, provide a value to the player if the selected symbol is a non-terminator symbol, (Landing on a location such as "Community Chest" provides the player with an award) and provide another value to the player if said selected symbol is a terminator symbol, (Landing on a terminator symbol such as "Go To Jail" ends the bonus round and returns the player to the basic game where additional awards are earned), wherein said value is at least partially based on the number of non-terminator symbols not selected, (Col. 2. Lines 54-65, Demar discloses an escalating bonus feature in which bonuses are awarded for reaching a designated bonus square on the Monopoly game board. Advancing the token identifier along the game board allows for payoffs to be made, when the token identifier reaches the bonus station. Each time another bonus station is reached, higher payoffs are awarded. The examiner interprets this as disclosing the claimed limitation because if a terminator is reached between bonus stations, then the bonus values do not escalate and the player returns to a basic game.) This disclosure also extends to providing values to the player if terminators are selected, wherein the value is based on the number of non-terminator symbols not selected.
- Processor operable with said display device to:
Enable the player to select one of said symbols not previously selected by the player, (Player that lands on "Community Chest" selects a symbol that was not previously selected by the player); provide a value to the player if said selected

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symbol is a non-terminator symbol, (Landing on a location such as "Community Chest" provides the player with an award);

- Processor operable with said display device to:

Provide another value to the player if the selected symbol is a terminator symbol, (Landing on a terminator symbol such as "Go To Jail" ends the bonus round and returns the player to the basic game where additional awards may be earned), wherein said value is at least partially based on the number of non-terminator symbols not selected, (Col. 2. Lines 54-65: please refer to the discussion of escalating bonuses, above.)

- Provide a first award to the player if player-selected selection is not associated with one of said terminators (award provided if player does not arrive at "Go To Jail").
- Provide a second award (or a first award) to the player if player-selected selection is associated with one of said terminators (a terminating symbol such as "Community Chest" may offer awards instead of negatively impacting player's game). The second award is at least partially based on the number of non-selected selections that are not associated with one of said terminators (awards in bonus games are interpreted as second awards and are based on non-terminating events occurring in the basic game). The second award is based on providing a value to the player a number of times based on the number of non-selected selections that are not associated with one of the terminators, (Col. 2. Lines 54-65: please refer to the discussion of escalating bonuses, above.)

- The functions disclosed above can be repeated depending on terminator/non terminator selection.

Claims 2-3, 5-6, 10, 14, 18, 23, 25, 28-29, 48 and 51-52:

- Plurality of symbols including a plurality of non-terminator and terminator symbols, (Figure 10 discloses the Monopoly board theme with non-terminating symbols such as "Illinois Avenue12X", or "Atlantic Avenue15X" and terminating symbols such as "Go To Jail", additionally, terminating symbols comprise locations such as "Luxury Tax," in the sense that a player lacking sufficient funds to pay the tax cannot continue game play).
- The locations described above are player selectable selections.
- The processor (Figure 15, Item 270) enables the player to select the locations.
- Selections are associated with values, ("Community Chest" yields awards, which are values.)

Claims 8-9, 12-13, 16-17, 19, 21-22, 26-27, 36-37, 42-43 and 49-50:

- Plurality of first awards, wherein each first award is associated with one of said selections, (DeMar discloses a feature where the player is able to predict and wager landing on positions on the board, Col. 1. Lines 64-66 and Col. 2. Lines 1-12. Each time such a wager is made, an award may follow. In this sense, a plurality of first awards is disclosed.)
- Provide a second award (or a first award) to the player if player-selected selection is associated with one of said terminators (a terminating symbol such as "Community Chest" may offer awards instead of negatively impacting player's

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game). The second award is at least partially based on the number of non-selected selections that are not associated with one of said terminators (awards in bonus games are interpreted as second awards and are based on non-terminating events occurring in the basic game). The second award is based on providing a value to the player a number of times based on the number of non-selected selections that are not associated with one of the terminators, (Col. 2. Lines 54-65: please refer to the discussion of escalating bonuses, above.).

Claims 34, 40, 46 and 55:

Instructions for implementing steps associated with gaming functions are stored in a memory device, (Figure 2, Item 86 & Col. 5. Lines 32-47.)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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3. **Claims 32-33, 38-39, 44-45 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeMar et al. (US 6,315,660) in view of Walker et al. (US 6,113,495).**

Claims 32-33, 38-39, 44-45 and 53-54:

DeMar teaches the invention substantially as claimed, but fails to teach operating the gaming device over a data network such as the Internet. Walker discloses operating the gaming device over the Internet, (Figure 1, Item 110 & Col. 5. Lines 44-46.) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify DeMar in view of Walker to include the operation of the gaming device over a data network such as the Internet. This would enable remote play of the gaming device. This would attract a greater number of players and thereby increase casino revenues.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omkar A. Deodhar whose telephone number is 571-272-1647. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OAD

/Corbett Coburn/
Primary Examiner
AU 3714